



Single family houses, duplexes, and multi-family houses, along a sidewalk and connector road, in walking distance of the Newtonville MBTA commuter rail station. (Photo by Amy Dain.)

HOUSING / OPINION

What the MBTA Communities law means for your town

Understanding the new concept of zoning capacity



AMY DAIN

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First of a five-part series.

THERE IS A NEW concept in zoning, invented this year by the Commonwealth of Massachusetts. In promulgated guidelines, the concept has been dubbed “minimum multi-family unit capacity.” I refer to the concept as “zoning capacity.”

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If you live in a community served by the MBTA, the concept may soon animate discussions at your town or city hall, or in local on-line forums, or between neighbors about how much multi-family housing the community should allow.

In Lincoln, the zoning capacity number of 635 will reverberate through civic deliberations. In Newton, where I live, we'll study the figure 8,330. In Acton, 1,383; in Medford, 6,443. The lowest number is in Plympton (53), the highest in Cambridge (13,477).

What do these numbers mean?

In 2021, the state adopted the MBTA Communities zoning law, requiring cities and towns served by the MBTA (outside of Boston) to zone a district “of reasonable size” for multi-family housing near MBTA stations, where practical. The law was needed because eastern Massachusetts has a housing shortage and traffic problems, and cities and towns have been over-restricting home development for decades. The solution, under the law, is transit-oriented development.

Notably, though, there was no pre-existing standard for reasonable size of zoning districts, some of which are smaller than an acre. The new state law delegated authority to the executive branch – the Department of Housing and Community

Development — to define reasonable size. And in defining it, the agency invented the concept of zoning capacity.

In August, the department issued guidelines defining minimum compliant district size in terms of two parameters, A) land area and B) zoning capacity. Land area is straightforward, measured in acres. Zoning capacity is more complicated.

Understanding zoning capacity

If you draw a zoning district for multi-family housing (defined as buildings with three or more dwelling units) on a municipal zoning map, you can add up how many housing units in multi-family buildings could theoretically and maximally be built on every existing parcel in the district, based on what the zoning allows, regardless of what exists on each parcel or what the market might favor for each parcel. This count yields the zoning capacity of the district for multi-family housing.

To illustrate the concept, let's consider a single land parcel, a one-acre property, where the zoning allows for six dwelling units to be built. (The zoning might specify, for example, that multi-family buildings containing no more than six units are allowed on parcels that are one acre or larger.) The zoning capacity of the parcel at hand is six units.

Now imagine that the parcel is already built with four units. The zoning capacity is still six units. The four units may be new; their redevelopment unlikely. The zoning capacity is still six units. The four units might be decaying, ready for teardown and redevelopment. The zoning capacity is still six units. The four units might be arranged on part of the parcel so there is room for two more units without tearing down the original four. The zoning capacity is still six units.

Now imagine that parcel is already built with eight units, even though the zoning only allows for six units. The eight units are “non-conforming” with zoning. (Many buildings in Greater Boston are non-conforming with zoning.) The zoning capacity of the parcel is still six units.

Now imagine that parcel is built with a pharmacy, and no homes, but the zoning would allow for six dwelling units. The zoning capacity is still six units.

The zoning capacity for a whole district is calculated by adding up the zoning capacities of each existing land parcel within the district. Zoning capacity is not a home production goal. Zoning capacity is not a count of existing homes, nor a projection of the number of homes that might be built under the zoning. Zoning capacity is a legal envelope of allowed buildings; an estimated count of technically allowed dwelling units.

The state has assigned a minimum multi-unit capacity number to each MBTA community; each municipality is required to have a zoning district (or districts) that contains the requisite zoning capacity for multi-family housing. The chart of required minimum zoning capacities for each municipality can be downloaded here: <https://www.mass.gov/doc/mbta-communities-community-category-designations-and-capacity-calculations/download>

How can cities and towns achieve compliance with their zoning capacity targets?

Under the framework of this law, municipalities are responsible for their own zoning. Either their zoning is already in compliance with the MBTA Communities zoning law (by meeting the minimum land area, minimum multi-family unit capacity, and other requirements) or the municipality is now required to revise their local zoning requirements to come into compliance with state law. Since the state in November released the tools for measuring zoning capacity, we do not know yet which, if any, cities and towns served by the MBTA already have zoning in place that meets the assigned minimum zoning capacities.

The law gives municipalities significant flexibility in drawing the districts and establishing the allowed densities (units per acre, units per building, etc.) and dimensional requirements (setbacks, heights, etc.) to meet the minimum capacity

standards. Municipal planners are now beginning to test different zoning scenarios.

Municipalities seeking to limit construction of multi-family housing might draw the districts to cover areas that are already densely developed with housing, so that redevelopment could not yield that many net new units. If the municipality draws the zoning densities close to – or even less than – existing densities, then probably the municipality will not see a lot of building in the new zoning envelope. In this way, the requirements indirectly credit municipalities that already have multi-family housing in qualifying locations, although the guidelines also assign higher zoning capacity targets to the municipalities that already contain the most housing.

On the other hand, changing the zoning where people already live is politically hard to do. We might therefore see this tool used more often in areas of underperforming asphalt where strip malls and office parks are languishing. In districts that now have no housing, the zoning capacity number will equal the net potential buildout number.

All of the minimum capacities assigned to each municipality add up to 283,463 dwelling units. Actual buildout of net new units will necessarily come in lower, as at least some districts will be drawn over properties that contain some housing. Calculating “net new units allowed” would involve subtracting existing units from total zoning capacity of qualifying districts. The market is unlikely to build out to the full potential in the short term, especially where there are already existing buildings on most properties.

There will likely be a lot of variability across communities in the ratio of newly built dwelling units compared to the minimum zoning capacities. In general, the flexibility of the law, differences in local housing markets, the assignment of unique minimum multi-family unit capacities numbers, and other factors will account for variable outcomes, from place to place.

Why did each community get a unique capacity target?

The Department of Housing and Community Development concluded in its guidelines that reasonable size is a “relative rather than an absolute determination.” A district that is reasonable in one city or town may not be reasonable in another city or town, the guidelines explain.

Per the guidelines, municipalities that have rapid transit stations (Red, Green, Orange, Silver, Blue Lines) should have more responsibility to welcome new homes than communities that only have commuter rail stations. Communities that contain commuter rail stations should generally have to allow more housing than communities that are adjacent to municipalities that contain stations.

The Department of Housing and Community Development also determined that the zoning capacity requirements should scale with the number of existing homes in a municipality. The more homes in a municipality, the greater the required zoning capacity. This relation of zoning capacity to current housing stock should generally even out the rate of growth across municipalities.

The MBTA Communities zoning law applies to 175 municipalities. This means that implementation will involve the engagement of thousands of people, to analyze zoning, test different scenarios, debate alternatives, write new zoning provisions, run public hearings, conduct public education, and hold votes. Zoning capacity numbers will animate the whole effort – to gain abundant housing and great neighborhoods.

Amy Dain is a consultant in public policy research with Dain Research in Newton. Her website is [here](#) and she can be found on her Twitter and Instagram at @amydain. Her series of articles is based on a working paper and a blog post she wrote for the Lincoln Institute of Land Policy.

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